

grant program pursuant to Idaho Department of Health and Welfare Rules, IDAPA 16, Title 3, Chapter 16, "Rules Governing the Individual and Family Grant Program," who is dissatisfied with the administrative panel's determination of his eligibility and/or grant amount may request a fair hearing in accordance with Section 300. (7-1-93)

01. Time Limit. A request for hearing must be in writing stating the appellant's reasons for dissatisfaction and must be made as soon as possible not to exceed fourteen (14) days from receipt of the administrative panel's determination. (7-1-93)

02. Hearing. Hearings must be conducted pursuant to the rules set forth in Sections 300, et seq. (7-1-93)

353. -- 399. (RESERVED).

400. DIVISION OF HEALTH -- CLINICAL LABORATORIES ADMINISTRATIVE HEARINGS. (7-1-93)

01. Notice by Director. Any approval issued pursuant to the provisions of Idaho Department of Health and Welfare Rules, IDAPA 16, Title 2, Chapter 6, "Rules and Regulations Governing Quality Control and Proficiency Testing for Idaho Clinical Laboratories," may be denied, suspended, revoked or not renewed, by notice in writing by the Director of the Department of Health and Welfare or his authorized representative served upon the applicant or Person responsible for the operation of a laboratory by registered or certified mail, setting forth the reasons therefor, if upon investigation it is found that said Person has failed or refused to comply with such rules. (7-1-93)

02. Request for Hearing. Within fourteen (14) days of receipt of notice of grounds for denial, suspension, revocation or renewal, the applicant or responsible Party may serve upon the Director by registered or certified mail, a written request for a fair hearing. Upon receipt of such request, the Director shall fix a date for hearing, which date shall not be more than twenty-eight (28) days from receipt of the request and shall give the applicant or responsible Person at least fourteen (14) days of notice of said hearing date. (7-1-93)

03. Denial, Suspension, Revocation. If no request for hearing is made within the time specified, the approval shall be deemed denied, suspended or revoked. If the agency finds that the public health, safety or welfare imperatively requires emergency action, and incorporates the findings to that effect in its notice of denial, suspension or revocation, summary suspension of the approval may be ordered pending proceedings for revocation or other action. (7-1-93)

401. -- 403. (RESERVED).

404. DIVISION OF HEALTH -- REPORTABLE DISEASES ADMINISTRATIVE HEARINGS. (7-1-93)

01. Right for a Hearing. Any Person directly affected by an order or restriction as specified in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 2, Chapter 10, Subsections 015.05 through 015.10, "Idaho Reportable Disease Regulations," shall have the opportunity to have a hearing before the Director or an authorized representative of the Director within five (5) working days after the effective date of the order or restriction. (7-1-93)

02. Conduct of Hearing. The Department may take whatever precautions and make whatever arrangements are necessary for the conduct of such hearing to insure that the health of participants and the public is not jeopardized. (7-1-93)

03. Review. Any Person directly affected by an order or restriction may seek review of the Director's determination by the Board. The order or restriction shall remain effective, however, unless and until rescinded by the Board. (7-1-93)

405. DIVISION OF HEALTH -- WATER QUALITY LABS ADMINISTRATIVE HEARINGS. Water Quality Laboratory certification issued pursuant to Idaho Department of Health and Welfare Rules, IDAPA 16, Title 2, Chapter 13, "Rules Governing Certification of Idaho Water Quality Laboratories Manual," may be denied, suspended, revoked or not renewed, by notice in writing by the Director of the Department of Health and Welfare or his authorized representative, served upon the applicant or Person responsible for the operation of a Certified Water Quality Laboratory by registered or certified mail setting forth the reasons therefor if, upon investigation, it is found that said Person has failed or refused to comply with any of such rules and regulations. The manner of requesting an administrative hearing, and the conduct of that hearing will be done in compliance with Sections 100, through 102, and Section 405. If no request for hearing is made within the time specified, the certification must be deemed denied, suspended or revoked. If the agency finds that the public health, safety or welfare imperatively requires emergency action and incorporates the findings to that effect in its notice of denial, suspension or revocation, summary suspension of the approval may be ordered and a notice of hearing for revocation or other action will be issued within ten (10) days. (7-1-93)

406. DIVISION OF HEALTH -- MILK STANDARDS ADMINISTRATIVE HEARINGS. Any producer, hauler or plant operator who receives a notice of intent to deny, suspend, revoke or fail to renew a license or permit pursuant to Idaho Department of Health and Welfare Rules IDAPA 16, Title 2, Chapter 18, "Rules Governing Grade A Pasteurized Milk, With Administrative Procedures," shall have the right to Petition for a hearing. (7-1-93)

01. Filing for a Hearing. A Petition for a hearing shall be filed with the Hearing Coordinator by the producer, hauler or plant operator within fourteen (14) days of receipt of a notice of intent to deny, suspend, revoke or to fail to renew a license or permit. The Petition shall be signed, dated and shall set out the reasons for the hearing request. (7-1-93)

02. Scheduling of Hearing. If a request for a hearing is received by the Hearing Coordinator a hearing shall be scheduled within twenty-one (21) days of receipt of the request and shall be governed by the provisions of Section 101. (7-1-93)

03. Judicial Review. Any producer, hauler or plant operator who has exhausted all administrative remedies available within the Department of Health and Welfare and is aggrieved by the final decision in a contested case is entitled to Judicial Review of his case pursuant to Section 67-5240 et seq., Idaho Code. (7-1-93)

407. DIVISION OF HEALTH -- FOOD ESTABLISHMENTS ADMINISTRATIVE HEARINGS. Every applicant for a license, licensee or license holder has the right to a hearing when aggrieved by an action or intended action of the regulatory authority resulting in the denial, suspension or revocation of a license according to the provisions of Idaho Department of Health and Welfare Rules IDAPA 16, Title 2, Chapter 19, "Rules and Regulations Governing Food Sanitation Standards For Food Establishments (UNICODE)." (7-1-93)

01. Petition for Hearing. A Petition for a hearing shall be filed with the regulatory authority by the applicant or license holder within fourteen (14) days of receipt of a notice of action or intended action to deny, suspend, revoke or to fail to renew a license. The Petition shall be signed, dated and shall state the reasons for the hearing request. (7-1-93)

02. Date for Hearing Scheduled. If a request for a hearing is received by the Hearing Coordinator, a date for a hearing shall be scheduled

within twenty-one (21) days of receipt of the request and shall be governed by the provisions of Section 101. (7-1-93)

408. DIVISION OF HEALTH -- RAW MILK ADMINISTRATIVE HEARINGS. Any producer who receives a notice of intent to deny, suspend, revoke or to fail to renew a license or permit pursuant to Idaho Department of Health and Welfare Rules IDAPA 16, Title 2, Chapter 21, "Rules and Regulations Governing Retail Raw Milk, With Administrative Procedures," shall have the right to Petition for a hearing. A Petition for a hearing shall be filed with the Hearing Coordinator by the retail raw milk producer within fourteen (14) days of receipt of a notice of intent to deny, suspend, revoke or to fail to renew a license or permit. The Petition shall be signed, dated and shall set out the reasons for the hearing request. If a request for a hearing is received by the Hearing Coordinator, a hearing shall be scheduled within twenty-one (21) days of receipt of the request and shall be governed by the provisions of Section 101. (7-1-93)

409. -- 410. (RESERVED).

411. DIVISION OF HEALTH -- CONDENSED AND DRY MILK PRODUCTS ADMINISTRATIVE HEARINGS. Any producer, hauler or plant operator who receives a notice of intent to deny, suspend, revoke or to fail to renew a license or permit pursuant to Idaho Department of Health and Welfare Rules IDAPA 16, Title 2, Chapter 27, "Rules Governing Grade A Condensed Milk and Dry Milk Products, With Administrative Procedures," shall have the right to Petition for a hearing. (7-1-93)

01. Petition for Hearing. A Petition for a hearing shall be filed with the Hearing Coordinator by the plant operator within fourteen (14) days of receipt of a notice of intent to deny, suspend, revoke or to fail to renew a license or permit. The Petition shall be signed, dated and shall set out the reasons for the hearing request. (7-1-93)

02. Date of Hearing. If a request for a hearing is received, a hearing shall be scheduled within twenty-one (21) days of receipt of the request and shall be governed by the provisions of Section 101. (7-1-93)

03. Judicial Review. Any producer, hauler or plant operator who has exhausted all administrative remedies available within the Department of Health and Welfare and is aggrieved by the final decision in a contested case is entitled to Judicial Review of his case pursuant to Section 67-5240 et seq., Idaho Code. (7-1-93)

412. -- 501. (RESERVED).

502. DIVISION OF FAMILY AND COMMUNITY SERVICES -- EMERGENCY FOOD ASSISTANCE ADMINISTRATIVE HEARINGS. The opportunity for a fair hearing must be provided to any household dissatisfied because of its suspension from the Temporary Emergency Food Assistance Program (TEFAP) or denial of such benefits and services. The fair hearing shall be governed by the provisions of Section 300. and Idaho Department of Health and Welfare Rules IDAPA 16, Title 4, Chapter 13, "Rules Governing the Temporary Emergency Food Assistance Program (TEFAP)." (7-1-93)

503. DIVISION OF FAMILY AND COMMUNITY SERVICES -- LIHEAP ADMINISTRATIVE HEARINGS. (7-1-93)

01. Fair Hearing Opportunity. The opportunity for a fair hearing before a Hearing Officer must be provided to any household dissatisfied with any action by the Department regarding benefits or services pursuant Idaho Department of Health and Welfare Rules IDAPA 16, Title 4, Chapter 14, "Rules Governing the Low Income Home Energy Assistance Program (LIHEAP)," in accordance with Sections 300., et seq., if the: (7-1-93)

a. Application is denied; or (7-1-93)

b. Application is neither approved nor denied within the time limit specified in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 4, Chapter 14, Subsection 202.01, "Rules Governing the Low Income Home Energy Assistance Program (LIEAP)," unless the delay was caused by the household's lack of cooperation in providing necessary and reasonable evidence; or (7-1-93)

c. Payments are to be made in a lesser amount than the household was notified earlier. (7-1-93)

02. Form of Request. The household must make a written request for hearing on form HW0406, "Appeal." (7-1-93)

03. Denial or Dismissal of Hearing. The household's request for a fair hearing is to be denied or dismissed if one (1) of the following conditions exists: (7-1-93)

a. The household has withdrawn its request in writing; or (7-1-93)

b. The reason for a mass decrease in the amount of payment is due solely to unavailability of funds sufficient to make payments in the amount originally determined. (7-1-93)

04. Standards for Hearing. The fair hearing must meet the following standards: (7-1-93)

a. It must be held in a place reasonably convenient and accessible to the claimant; and (7-1-93)

b. The claimant must be provided the opportunity before the hearing to review the case record and any written evidence that will be used in the hearing; and (7-1-93)

c. The Hearing Officer must be a DHW employee not involved in the decision being appealed; and (7-1-93)

d. Testimony must be under oath; and (7-1-93)

e. The hearing must be recorded and the decision must be based on the hearing record. (7-1-93)

05. Claimant Rights. The claimant must have the following rights: (7-1-93)

a. To bring to the hearing a representative of his choice; and (7-1-93)

b. To present oral and written statements and other evidence; and (7-1-93)

c. To have witnesses subpoenaed; and (7-1-93)

d. To cross-examine witnesses; and (7-1-93)

e. To bring an interpreter, if needed. (7-1-93)

06. Informal Conference. Each claimant must be provided the opportunity for an informal conference to try to resolve the matter at issue before a fair hearing is held. (7-1-93)

07. Time Limits for Requesting a Hearing. The claimant must request a fair hearing pursuant to the following time limits: (7-1-93)

a. No later than sixty (60) days from the date a notice of payment or denial is mailed; (7-1-93)

b. No later than ten (10) days from the date a notice of termination is mailed. (7-1-93)

08. Time Limits for Conducting Hearing. If a claimant requests a hearing within the time limit specified in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 4, Chapter 14, Subsection 400.07, "Rules Governing the Low Income Home Energy Assistance Program (LIHEAP)," the hearing must be held, a decision issued, and action taken to carry out the decision pursuant to the following limits: (7-1-93)

a. Within sixty (60) days after the request, regardless of whether DHW provides an informal conference, if denial, delay, or payment amount is the issue; or (7-1-93)

b. Before decreasing or stopping payments, if that is the issue. (7-1-93)

504. DIVISION OF FAMILY AND COMMUNITY SERVICES -- HOMEMAKER SERVICE ADMINISTRATIVE HEARINGS. If a client of the Department wishes to appeal the denial of services or benefits pursuant to IDAPA 16, Title 3, Chapter 11, Rules Governing Homemaker Services, the client should be advised to proceed according to Section 101. An opportunity for a fair hearing will be granted to any applicant/recipient who requests a hearing to appeal the denial. (7-1-93)

505. -- 506. (RESERVED).

507. DIVISION OF FAMILY AND COMMUNITY SERVICES -- REHABILITATION FACILITIES ADMINISTRATIVE HEARINGS. Within thirty (30) days of the site review, the applicant requesting certification pursuant to IDAPA 16, Title 4, Chapter 4, Rules, Regulations and Minimum Standards for Rehabilitation Facilities will be notified by mail or Personal service of the intent to deny or revoke certification and the reasons for denial or revocation, pursuant to Idaho Department of Health and Welfare Rules, IDAPA 16, Title 4, Chapter 4, Subsection 200.05, "Rules, Regulations and Minimum Standards for Rehabilitation Facilities." Within fourteen (14) days of the date of the notice to deny or revoke certification, the applicant may request a hearing before the Board or its designee and shall be governed by the provisions of Sections 100. through 102. (7-1-93)

508. (RESERVED).

509. DIVISION OF FAMILY AND COMMUNITY SERVICES -- DEVELOPMENTAL DISABILITIES FACILITIES ADMINISTRATIVE HEARINGS. Pursuant to Idaho Department of Health and Welfare Rules, IDAPA 16, Title 4, Chapter 11, Rules, Regulations and Minimum Standards Governing Developmental Disabilities Centers, the Department will deny or revoke certification if, after investigation of the center, it finds sufficient evidence that indicates the center is not adequate for the health, safety and the care, treatment, maintenance, training and support of developmentally disabled Persons in accordance with such regulations, or the center services are not adequate to meet the needs of developmentally disabled Persons. Notification and hearing provisions shall be in accordance with Sections 100. through 103. (7-1-93)

01. Notice. Within thirty (30) days of the site review, the applicant will be notified by mail or Personal service of intent to deny or revoke certification and the reasons for denial or revocation, pursuant to Idaho Department of Health and Welfare Rules, IDAPA 16, Title 4, Chapter 11, Section 305, "Rules, Regulations and Minimum Standards Governing Developmental Disabilities Centers." (7-1-93)

02. Hearing. Within fifteen (15) days of the receipt date of the notice to deny or revoke certification, the applicant may request a hearing with the Director or his designee. (7-1-93)

03. Review Decision. Upon receipt of a written request after hearing, a review decision will be sent to the applicant within thirty (30) days

of the date of the conclusion of hearing, and the applicant may seek Judicial Review pursuant to Section 67-52 40 et seq., Idaho Code. (7-1-93)

510. DIVISION OF FAMILY AND COMMUNITY SERVICES -- ITSAP ADMINISTRATIVE HEARINGS. An applicant or subscriber who is denied or discontinued services or benefits pursuant to Idaho Department of Health and Welfare Rules IDAPA 16, Title 4 Chapter 2, "Rules Governing Idaho Telecommunication Service Assistance Program (ITSAP)," may request a hearing. Hearings shall be governed by the provisions of Sections 300., et seq. (7-1-93)

01. Informal Hearings. Each subscriber will be provided the opportunity for an informal conference with his provider in order to resolve the issue prior to a formal hearing. (7-1-93)

02. Right to Request a Formal Hearing. The opportunity for a fair hearing before a Department Fair Hearing Officer must be provided to dissatisfied households if the: (7-1-93)

a. Application is denied; or (7-1-93)

b. Discount rate is discontinued; or (7-1-93)

c. Application is not acted upon within the time requirements pursuant to Idaho Department of Health and Welfare Rules, IDAPA 16, Title 4, Chapter 2, Section 400., "Rules Governing Idaho Telecommunication Services Assistance Program." (7-1-93)

511. -- 599. (RESERVED).

600. DIVISION OF FAMILY AND COMMUNITY SERVICES. Unless otherwise provided by statute, rules and regulations of the Department, or other sections herein, any family member or alternative care provider not under contract with the Department has the right to appeal any Department decision regarding the Division of Family and Community Services provided under applicable Idaho Department of Health and Welfare Rules, including IDAPA 16, Title 6, Chapter 1, "Rules and Regulations Governing Social Services" (except for placement of children in foster care as provided in Section 601.), IDAPA 16, Title 6, Chapter 2, "Rules Governing Child Care Licensing," IDAPA 16, Title 6, Chapter 3, "Rules, Regulations and Minimum Standards For Alcoholism Treatment Facilities," IDAPA 16, Title 6, Chapter 4, "Rules For Statewide and Regional Interdepartmental Substance Abuse Coordinating Committees," IDAPA 16, Title 6, Chapter 5, "Rules Governing Alleged Medical Neglect of Handicapped Infants," IDAPA 16, Title 6, Chapter 6, "Rules For Loans To Group Homes For Recovering Alcohol and Drug Abusers," IDAPA 16, Title 6, Chapter 7, "Rules Governing Juvenile Justice Services," and IDAPA 16, Title 6, Chapter 8, "Rules, Regulations and Minimum Standards for DUI Evaluators." (7-1-93)

01. Appealable Decisions. Appealable decisions relevant to the Family and Community Services of the Department shall include, but are not limited to: (7-1-93)

a. Any decision not to provide services or to discontinue planned services; (7-1-93)

b. The Department's failure to act upon a referral to or request for services within thirty (30) days; or (7-1-93)

c. Any decision, unless court-ordered or court-authorized, to remove a child from an alternate care placement. (7-1-93)

02. Informal Processes. The Department affords the right to appeal decisions through informal processes in accordance with the current Family and Community Service policy on "Informal Processes for Appealing Decisions." (7-1-93)

a. The Person may pursue resolution through immediately requesting an informal conference with the family services worker handling the case and his immediate supervisor. (7-1-93)

b. The purposes of an informal conference are to: (7-1-93)

i. Resolve the matter at issue; (7-1-93)

ii. Explain the proposed action or inaction; and (7-1-93)

iii. Permit the individual, family or representative to present information about the matter and to request information from the Department. (7-1-93)

03. Regional Grievance Process. The Person may appeal the decision further through a regional grievance process. Any request to use this process shall be made in writing to the Regional Family and Community Services manager no later than ten (10) days after notification of the decision which prompted the grievance. (7-1-93)

a. A grievance review shall be conducted: (7-1-93)

i. By the regional Family and Community Services manager or his designee, who must be a Person other than the family services worker and his supervisor handling the case; and (7-1-93)

ii. Within fifteen (15) days of receipt of the written request, unless a later reasonable date is specifically requested by the individual or family. By no means should the later date exceed forty-five (45) days. (7-1-93)

notice: b. The individual or family involved shall receive five (5) days (7-1-93)

i. Of the date, time, and place of the review; and (7-1-93)

ii. That he may bring any Person or representative of any group to speak on his behalf or to present relevant facts. (7-1-93)

c. The regional Family and Community Services manager or his designee convening the review may: (7-1-93)

i. Ask for anyone or any evidence that applies to the grievance; and (7-1-93)

ii. Continue the review in order to allow reasonable time to arrange for additional witnesses or more information. (7-1-93)

d. The review shall be held in an informal setting and manner which promote free and clear expression by all Parties. (7-1-93)

e. An audio tape recording of the review, reflecting the decision reached shall be maintained in the family's case record. (7-1-93)

f. Decision: (7-1-93)

i. If the issue was resolved through this process, the action agreed upon shall be taken as instructed by the Hearing Officer. (7-1-93)

ii. If the issue was not resolved, the individual or family shall be advised of their right to pursue the issue through the standard Contested Case procedures found in Sections 100. through 102. (7-1-93)

04. Right to Appeal. Use of the informal processes set forth in Section 600., shall in no way interfere with the right to appeal and receive an

administrative appeal in accordance with Sections 100. through 102.
(7-1-93)

05. Appeals. The appeal must be submitted to the Hearing Coordinator within twenty-eight (28) days of the date the Department gave written notice of the action. (7-1-93)

601. DIVISION OF FAMILY AND COMMUNITY SERVICES ADMINISTRATIVE HEARINGS -- SOCIAL SERVICES. The Department of Health and Welfare, in carrying out its legal responsibility in respect to placement of children in foster family care which results from magistrate court action or the acceptance of a signed consent of the natural parent(s), is committed to the principle of a need for a strong professional partnership with foster parents. Grievances shall be conducted according to the provisions of Subsection 600.02. and Subsection 600.03. (7-1-93)

01. Removal of Foster Child - Grievance Procedure. While the Department must retain the authority and responsibility to decide on the removal of a foster child, every effort will be made to give reasonable notice to foster parents. If the situation cannot be resolved informally with the social worker and supervisor, foster parents will take the following steps to have their grievances heard by appropriate staff within the Regional Offices: (7-1-93)

a. The request for a hearing may be made in writing to the Regional Social Services Program Supervisor and must be made no later than ten (10) working days after the action which prompted the grievance. (7-1-93)

b. The hearing will be conducted by the Regional Social Services Program Supervisor or their designee, other than the social worker or supervisor handling the case, and the hearing will become a matter of record. (7-1-93)

c. The hearing will be held within fifteen (15) working days of a notice to the Regional Office of the grievance, unless a later reasonable date is requested by the foster parents. (7-1-93)

d. Foster parents will receive ample notice of date, time and place of the hearing. (7-1-93)

e. Foster parents may bring any person or representative of any group to speak on their behalf or to present relevant facts. (7-1-93)

f. The Hearing Officer may also ask for anyone or any evidence that applies to the grievance and may adjourn the hearing in order to allow reasonable time to arrange for additional witnesses or more information. (7-1-93)

g. The hearing will be held in an informal setting and manner to promote free and clear expression by all concerned. (7-1-93)

h. If the issue can be resolved during the hearing, then it will be considered closed and a record made of the resolution. If not, the decision of the Hearing Officer will be presented in ten (10) working days after the hearing to the foster parents. If the foster parents wish to appeal the decision, they may do so directly to the Director of the Department of Health and Welfare, in writing. (7-1-93)

02. Appeal Procedure. An appeal is defined as an action taken by foster parents to protest a decision made by the Regional Office in relation to a grievance. The following procedure applies to the carrying out of an appeal: (7-1-93)

a. The appeal must be filed in writing, to the Director's office no later than ten (10) days after notification of the decision of the Regional Hearing Officer. (7-1-93)

b. The Hearing Officer will be selected by the Director from within the Department. (7-1-93)

c. The hearing will be held within thirty-five (35) days of receipt of the appeal. (7-1-93)

d. The foster parents will receive five (5) days' notice of the date, time, and place of the hearing. (7-1-93)

e. The hearing will be conducted in the same informal manner. (7-1-93)

f. The decision will be presented to the foster parents within ten (10) days after the adjournment of the appeal hearing. (7-1-93)

g. The appeal proceedings will be a matter of record. A copy of such proceedings will be held in the Regional Office, a copy provided to the foster parents, and the original will be retained in the Central Office. (7-1-93)

03. Child's Rights to a Hearing. If such a transfer results in a more restrictive living situation for the child, the child must be afforded the opportunity for a court or administrative hearing concerning the placement (see Idaho Department of Health and Welfare Rules, IDAPA 16, title 6, Chapter 1, Subsection 860.02., "Rules Governing Social Services"). The following hearing criteria must be satisfied before such a placement change may occur. (7-1-93)

a. A written notice to the child and his parents or guardians, including the time and purpose of the hearing, must be served at least twenty-four (24) hours prior to the hearing. (7-1-93)

b. No denial of adequate notice before hearing occurs if the juvenile willingly, knowingly, and understandingly signs a waiver of the twenty-four (24) hour period. (7-1-93)

c. A complete statement of the charges is to be included in the notice in order for the juvenile to decide whether to contest the charges of the Department, and if so, what rebuttal to prepare. (7-1-93)

04. Disclosure of Evidence and Rebuttal. Full disclosure of evidence need not be made until the hearing. Fairness to the juvenile requires that the decision of the Hearing Officer be based solely on the evidence and rebuttal evidence. Although the hearing may be informal, with a relaxation of the rules of evidence, it must allow the juvenile an opportunity to rebut the evidence and testimony which the Department has against him. The process is to be flexible enough to permit consideration of evidence including: (7-1-93)

a. Letters; and (7-1-93)

b. Affidavits; and (7-1-93)

c. Other material that would not be admissible in an adversary criminal trial. (7-1-93)

05. Cross-Examination. Formal cross-examination is not required, but the juvenile is to be given an opportunity to question his accusers so that the basis of the accuser's knowledge regarding the charges comes to the attention of the Hearing Officer. (7-1-93)

06. Hearing Officer Qualifications and Selection. The Hearing Officer, who is designated by the Regional Services Manager, must be neutral and must not have dealt with the juvenile previously. The Hearing Officer need not be a judicial officer or lawyer. (7-1-93)

07. Record of Hearing. The hearing proceedings must be recorded either electronically or stenographically; and a written record must be made of each hearing which must include: (7-1-93)

- a. All pleadings, motions and intermediate rulings; and (7-1-93)
- b. Evidence received or considered; and (7-1-93)
- c. A statement of matters officially noticed; and (7-1-93)
- d. Questions and offers of proof, objections and rulings thereon; and (7-1-93)
- e. Proposed findings and exceptions; and (7-1-93)
- f. Any decision, opinion, or report by the officer presiding at the hearing; and (7-1-93)
- g. All staff memoranda or data submitted to the Hearing Officer or members of the Department in connection with their consideration of the case. (7-1-93)

08. Counsel/Representation for the Child. While counsel for the child is not required at the hearing, it is suggested that an adult who can argue and question on behalf of the child be allowed to attend the hearing. Such Person may be a close friend, social worker, foster parent, or a relative. (7-1-93)

09. Powers and Duties of Hearing Officer. The decision-making responsibilities of the Hearing Officer are as follows: (7-1-93)

- a. The Hearing Officer is limited in making his decision to the pleadings and prayer for relief set out in these pleadings. This means the Hearing Officer is limited to either affirming or reversing the Department's action; and (7-1-93)
- b. The Hearing Officer, while affirming or reversing the Department's action, may recommend an alternate disposition which is not binding on the Department; and (7-1-93)
- c. If during the hearing proceedings, facts are brought out which were not previously known and which could cause the Department to alter the pleaded disposition, the Hearing Officer's decision may reflect any stipulated settlement at which the Parties arrive. (7-1-93)

10. Filing of Decision. A copy of the Hearing Officer's decision must be sent to the Office of the Attorney General, Health and Welfare Division, Statehouse, Boise 83720 and must be served on both Parties to the action. (7-1-93)

11. When Hearing Not Required. An administrative hearing is not required if a youth is placed in a designated, temporary (not to exceed thirty (30) days), less-restrictive setting, pending transfer between two (2) or more restrictive placements. (7-1-93)

12. Members of Review Panel. If the review is an administrative review, the review team will include someone who does not fall within the direct line of supervision in the delivery of services to the child or parents being reviewed. This review panel may include Department staff, staff of other agencies, officers of the court and citizens qualified by experience, professional background or training. (7-1-93)

- a. Members of the administrative review panel will receive instructions which will enable them to understand the review process and their roles as participants. (7-1-93)